



ASSOCIATION OF COMMUNICATION ENGINEERS

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Member Firms

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March 6, 2009

Ms. Barbara Brown
U.S. Department of Commerce / NTIA
1401 Constitution Avenue, N.W.
Washington, D.C. 20230

RE: Comments of Association of Communications Engineers (ACE)
Related to Rules of NTIA relative to the American Recovery and
Reinvestment Act of 2009

Dear Ms. Brown;

NTIA has indicated that it is accepting comments from the public regarding the American Recovery and Reinvestment Act of 2009 (Recovery Act), and that NTIA will meet with interested parties to discuss this subject. The Association of Communications Engineers (ACE) has contacted you and is interested in meeting with the NTIA.

Based on published information, it is our understanding that NTIA is attempting to structure this exchange of information similar to the process used by the Federal Communications Commission, where meetings will be treated as "Ex Parte" communications, and are to be appropriately noticed and documented as such. Based on the process in place at the FCC, we are submitting the attached comment to you for consideration by NTIA. It is our desire to meet with NTIA to discuss the contents of our comment and to help support the NTIA with the implementation of the Recovery Act.

If you have any questions, please call me at (218) 346-3600.

Sincerely,

Gregory D. Rise
Secretary/Treasurer, ACE
150 S. 2nd Street, SW
Perham, MN 56573

**Before the
National Telecommunications Information Agency
Washington, D.C. 20554**

**In the Matter of
The American Recovery and Reinvestment Act**

**COMMENTS OF THE
ASSOCIATION OF COMMUNICATION ENGINEERS**

The Association of Communication Engineers¹ (ACE) consists of nearly 30 small to medium size professional engineering companies that provide communication engineering services in both inside and outside plant for service providers that utilize funds and resources of the Department of Agriculture Rural Utilities Service (USDA/RUS) Rural Development Telecommunications Program and other telecommunications service providers.

As part of the rules for administering grant funds of the American Recovery and Reinvestment Act (“the Stimulus Act”), ACE recommends that NTIA require the use of independent, registered professional engineers to: 1) Perform engineering services for the grantees, and 2) Utilize engineers for certification to the NTIA that the projects constructed with NTIA funds meet the intent of the program. These are roles that engineers perform throughout the country in many fields, and in many industries.

The engineer that designs a project or system has the best perspective and ability to observe the construction, witness testing, and ensure the overall project is implemented smoothly and efficiently. Professional Engineers are regulated by state law in all 50 states and are bound by one or more codes of ethics. If an engineer fails to adhere to these high ethical standards, the states may levy a fine or revoke the engineer’s authorization to practice and prohibit that individual from performing further engineering work. By mandating the use of Professional Engineers, the government is able “to safeguard life, health, and property and to promote the public welfare²”. By utilizing Professional Engineers, NTIA will enlist an additional tool to ensure high levels of accountability and increased transparency in the use and application of

¹ Additional information is available on the ACE web site at www.ace-engineers.com

² “Model Law”, National Council of Examiners for Engineering and Surveying”, www.ncees.org

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stimulus funds as required by Sec. 6001(i)(3) of the American Recovery and Reinvestment Act of 2009 (ARRA).

Professional Engineers have been key participants in the Rural Utilities Service (formerly REA) Telecommunications loan programs since the inception of these programs, providing assistance to companies using federal funds for construction, and ensuring that the funds are used for the purposes specified by the government.

For RUS telecommunications programs, the engineer supports the borrower by identifying and documenting requirements and objectives and preparing initial plans and environmental reviews. The engineer prepares formal plans and specifications and ensures fair competitive bidding procedures are followed. Once a contract is awarded, the engineer observes the construction and witnesses performance tests. Often the engineer provides project management services and serves as the “eyes and ears” of the borrower. The RUS, in turn, looks to the engineer to certify the work and provide a key interface between the government, the borrower, and the contractor.

RUS regulations specify that borrowers must utilize the services of an independent, state licensed, and properly insured professional engineer or obtain RUS certification of a member of the borrower’s staff. The engineers may not be affiliated with, or represent, a contractor, vendor or manufacturer who may provide labor, materials, or equipment to the borrower³. This rule enables the engineer to make unbiased judgments and recommendations.

Projects which involve the construction of cable, shelters, buildings and/or towers are fundamentally different than projects which only involve the acquisition and configuration of commercial-off-the-shelf equipment. As an example, for cable construction, public safety issues must be considered both during and after construction. If a fiber cable is installed in an aerial configuration, the public may be exposed to risks associated with improper installation, inadequate support structures or inadequate clearance from electrical power conductors. Underground construction often involves placement of cable or other buried facilities in

³ 7CFR1753 Subpart B Section 1753.15

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hazardous locations or in close proximity to other utilities or equipment. Any project which requires the use of public right-of-way creates additional concerns relative to the safety of the public, the protection of both existing and new property, and coordination with Federal, State, and locally funded highway projects..

ACE members are very experienced with projects in rural areas. Equipment and designs which may work in a dense urban environment are often unsuitable to deployment in rural areas, where distances between subscribers are significantly greater, power may be less reliable, and environmental conditions require special considerations. ACE has also been an active participant in and sponsor of the Rural Standards Initiative, RSI (www.ruralstandards.org). RSI is a public-private collaboration that seeks to facilitate the evolution of technical resources needed to provide advanced communications infrastructure and services in rural areas. ACE members are also familiar with the Buy American provisions of the Rural Electrification Act which are similar to the Buy American provisions of ARRA.

We understand the urgency to implement efficient rules that can quickly translate to jobs and construction. We also understand the importance of ensuring success of investments, and accountability for the stimulus funds. For the reasons enumerated above, we recommend that the NTIA include rules requiring the use of registered, Professional Engineers, or equally qualified employees of any grantees, for projects funded by NTIA grant funds consistent with state engineering registration statutes as required by ARRA Sec.6001(e)(4).

Respectfully submitted,

A handwritten signature in blue ink that reads "Gregory D. Rise".

Gregory D. Rise
Secretary/Treasurer, ACE
150 S. 2nd Street, SW
Perham, MN 56573

March 6, 2009